

**Amendments to the Drawings:**

The attached replacement drawing sheet makes changes to Fig. 14 and replaces the original sheet with Fig. 14.

Attachment: Replacement Sheet

**REMARKS**

Claims 1-28 and 30-35 are pending in this application. Of those claims, claims 1-9, 11-13, 15-19, 27, 28, 30, 31 and 33-35 are allowed. By this Amendment, claims 1, 3, 5, 10, 14-16, 20, 21, 23, 25, 26, 28, 30-32 and 34 are amended. Support for the amendments to the claims may be found, for example, in the specification at page 14, lines 16-22, and in the claims as originally filed. No new matter is added.

The specification is amended herein to add the attached Sequence Listing. Fig. 14 is amended to add sequence identification numbers. Support for the Sequence Listing is found, for example, in the specification at page 31 (TABLE 1) and in original Figures 13 and 14. No new matter is added.

The attached paper copy and computer-readable copy of the Sequence Listing are submitted in compliance with 37 C.F.R. §§1.821-1.825. The contents of the paper copy and the computer-readable copy of the Sequence Listing are the same.

In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

**I. Allowed Claims and Allowable Subject Matter**

Applicants thank the Examiner for the prompt allowance of claims 1-9, 11-13, 15-19, 27, 28, 30, 31 and 33-35. Applicants also thank the Examiner for the indication that claims 10, 14, 20-24 and 32 would be allowable if the rejection under 35 U.S.C. §112, second paragraph, is overcome and claims 25 and 26 would be allowable if the rejection under 35 U.S.C. §101 is overcome. Because the rejections are overcome for the reasons described below, Applicants respectfully submit that claims 10, 14, 20-26 and 32 are in condition for allowance.

**II. Rejection Under 35 U.S.C. §101**

The Office Action rejects claims 25 and 26 under 35 U.S.C. §101 as being directed to non-statutory subject matter, but indicates that claims 25 and 26 are allowable if rewritten to overcome this rejection. Applicants respectfully traverse the rejection.

By this Amendment, claims 25 and 26 are rewritten as statutory method claims. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

**III. Rejection Under 35 U.S.C. §112, Second Paragraph**

The Office Action rejects claims 10, 14, 20-24 and 32 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicants regard as the invention, but indicates that the claims are allowable if rewritten to overcome this rejection. Applicants respectfully traverse the rejection.

By this Amendment, claims 10, 14 and 20 are amended to remove "preferably" from the claims. Claim 21 is amended to recite "chosen from the group" as opposed to "chosen in the group." Claim 23 is amended to provide antecedent basis to "a channel wall." Claims 32 is amended to cancel the phrase "a pair of molecules or groups acting as a DNA probe called 'molecular beacons'" in favor of "a pair of DNA probes." Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

**IV. Rejection Under 35 U.S.C. §102**

The Office Action rejects claims 27 and 28 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,166,188 to Cosgrove et al. ("Cosgrove"). Applicants respectfully traverse the rejection.

Cosgrove at least fails to teach "a liquid separating medium" as required by claim 27. Discussion of a liquid separating medium may be found in the specification, for example, at page 8, lines 13-22, and page 24, lines 1-16. Cosgrove only discloses a modified Chanock

Medium, including "1 ml [of] 1% nicotinamide adenine dinucleotide solution," to grow and test organisms for their susceptibility to chlorhydroxyquinoline. See col. 2, lines 35-43. Cosgrove is silent on a liquid separating medium.

Thus, Cosgrove does not anticipate claim 27. Claim 28 depends from claim 27 and, thus, also is not anticipated for at least the same reason. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

V. **Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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WPB:MCB/emd

Attachments:

- Petition for Extension of Time
- Copy of Notice to Comply
- Drawing Replacement Sheet
- Sequence Listing (paper and computer readable format copies)

Date: October 14, 2008

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